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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,408	04/13/2004	Susumu Moriya	0388-043850	3243

7590

04/13/2005

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EXAMINER

RIDLEY, RICHARD

ART UNIT

PAPER NUMBER

3651

DATE MAILED: 04/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/823,408

Applicant(s)

MORIYA ET AL.

Examiner

Richard Ridley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 4,11-13 and 20 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23-25 is/are allowed.
- 6) ☒ Claim(s) 1-3,5,10 and 14 is/are rejected.
- 7) ☒ Claim(s) 15-19,21 and 22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/28/05, 1/31/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election with traverse of Species III, fig. 15, 15, claims 1-3, 5, 10, 14-19, 21-25 in the reply filed on 4-13-04 is acknowledged. The traversal is on the ground(s) that fig 17& 18 are different views of the same apparatus and thus should belong to the same species. The examiner agrees. Additionally, the applicant argues the same for fig. 19& 20 and for fig. 25& 26. The examiner also agrees. Claim 1 appears to be generic.

The requirement is still deemed proper and is therefore made FINAL.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 1 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the phrase "-type" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "type"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d). What constitutes "air-supplying-type"?

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1, 3, 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Adam USP 6676365. Adam discloses a similar device comprising a(n):

- Frame (fig. 3A-10)
- Air-supplying-type support means (304)
- Dust removal filter (404)
- Air-supplying means (air is supplied)

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- Upper level portion (416) capable of swinging upward about one end
- Lower level portion (fig. 5A)

6. Claims 1, 3, 5, 10, 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Nagate et al. JP 2002-151571. Nagate discloses a similar device comprising a(n):

- Frame (fig. 6)
- Air-supplying-type support means (fig. 6)
- Dust removal filter (204)
- Air-supplying means (air is supplied)
- Drive force application means (5)
- Transport casing (21) covering a transport space

7. Claims 1, 2, 3 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Suehara et al. JP 2002-176091 in view of Adam USP 6676365. Suehara discloses all of the claim limitations in a similar device comprising a(n):

- Frame
- Air-supplying-type support means (30)
- Air-supplying means (air is supplied)
- Drive force application means (33, 34)
- Dust removal filter (obvious if not disclosed)

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Suehara et al. may or may not disclose dust removal filter (404).

Adam teaches the use of a dust removal filter (404) for the purpose of providing for a means to filter air and thus provide for a clean operating system (C3/L39).

If a dust removal filter is not disclosed in Suehara, it would have been obvious to one having ordinary skill in the art at the time of the invention to have employed the use of a dust removal filter, as taught by Adam, in the device of Suehara for the purpose of providing for a means to filter air and thus provide for a clean operating system.

#### ***Allowable Subject Matter***

8. Claims 23, 24, 25 are allowed.

9. Claims 15, 16, 17, 18, 19, 21, 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

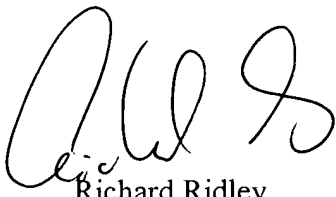
10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Ridley whose telephone number is (571) 272-6917. The examiner can normally be reached on Mon-Fri 7:30 am - 4:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Richard Ridley', is positioned above the printed name and date.

Richard Ridley  
8 April 2005

Richard Ridley  
Primary Examiner  
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